IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/06/2004

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THE HONOURABLE MR. JUSTICE P.K. MISRA
AND
THE HONOURABLE MR. JUSTICE F.M. IBRAHIM KALIFULLA

WRIT PETITION NO.33342 OF 2003

D. Neelamegam
Sub Registrar (Guideline)
District Registrar's Office,
Chidambaram. .. Petitioner

-Vs-

1. The Tamilnadu Administrative Tribunal,
Rep. by its Registrar,
Chennai.

2. The State of Tamilnadu,
Rep. by the Secretary of Govt.,
(Commercial Tax), Fort St. George,
Chennai 600 009.

3. The Inspector General of Registrtion,
Chennai 600 028. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of certiorari as stated therein.

For Petitioner : Mr.N.P. Kumar

For Respondents 2-3 : Mr.S.T.S. Murthi
Special Govt. Pleader

:O R D E R

(Order of the Court was made by P.K. MISRA, J.)

The petitioner has prayed for quashing the order dated 22.4.2003 passed by the State Administrative Tribunal in O.A.No.4047 of 2002 and the Proceedings No.21011/B1/95 dated 23.12.1998/6.1.1999 passed by the second respondent.

2. The petitioner, an employee under the Registration Department, in course of time was promoted as Sub-Registrar and at present working as Grade-I Sub-Registrar with effect from 4.2.2002. The disciplinary proceedings No.21011/L3/B1/95 dated 29.12.1995 was initiated against the petitioner under Rule 17(b) of the Tamilnadu Civil Services (C. C & A) Rules. The gravamen of the charge was to the effect that the petitioner while working as Sub-Registrar in Arani had made corrections in the Guideline Registers of Arani Town beyond his jurisdiction and contrary to Rule 20(1) and 20(3)(1) of the Government Servant Conduct Rules. The petitioner submitted his reply denying the allegations. It has been pointed out by the petitioner that the corrections had been made before the Registers had been placed before the Guideline Committee, which has fixed the value. Accordingly, the petitioner requested that the proceedings should be dropped. However, Deputy Inspector General of Registration was appointed as Enquiry Officer. After holding enquiry, such authority came to the conclusion that the corrections had been made by the present petitioner before the matter had been placed before the Guideline Committee and the Registrar, and after approval of the Guideline Registers no correction had been made by the present petitioner and the instructions had been followed. Accordingly the petitioner was completely exonerated by the enquiry officer.

3. Subsequently, however, the Inspector General of Registration did not agree with the findings of the enquiry officer and issued notice to the petitioner to show cause as to why appropriate action should not be taken against him. The substance of the notice issued by the Inspector General is to the effect that corrections had been made after the Guideline Registers had been approved by the Guideline Committee and the District Registrar. The petitioner again filed a detailed explanation explaining the circumstances under which corrections had been made. It has been reiterated by him that the corrections had been made on 27.3.1992 and thereafter the Registers were placed before the Guideline Committee on 28.3.2002 and were approved as such and subsequently placed before the District Registrar. It was also clearly indicated by him that no witness had deposed about any correction allegedly made after 1.4.1992. The Inspector General of Registration, however, did not accept such explanation and after pointing out that the corrections had not been countersigned or initialled by the Guideline Committee or by the District Registrar, came to the conclusion that the charges had been proved and accordingly imposed punishment of stoppage of increment for one year with cumulative effect.

4. Aggrieved by the aforesaid order of punishment, the petitioner had filed O.A.No.4047 of 2002 to quash the proceedings dated 23.12.1998 /6.1.1999 of the Inspector General of Registration and to fix seniority next to T. Ekambaram in the District Registrar Panel for the year 1998-99.

5. The Tribunal allowed the application in part and modified the punishment to stoppage of increment for one year without cumulative effect. Against the aforesaid order passed by the Tribunal, the present writ petition has been filed with a prayer to quash the order of punishment.

6. Mr.N.P. Kumar, learned counsel, appearing for the petitioner has

contended that in view of the conclusion of the Tribunal that no correction has been made by the present petitioner after the Guideline Registers had been finalised by the Guideline Committee and the District Registrar and such corrections had been made by the petitioner before such Registers were placed before the Guideline Committee and there was no corrupt motive or dishonest intention, punishment imposed should have been quashed.

7. It is evident that the tenor of the allegation against the petitioner was that he had corrected Guideline Registers in question after the same had been finalised by the Guideline Committee and the District Registrar. However, at the enquiry no evidence whatsoever was adduced to indicate that corrections had been made by the petitioner after the Guideline value has been finalised by the Guideline Committee and the District Registrar. On the other hand, two of the witnesses examined had categorically stated that corrections had been made by the petitioner on 27.3.1992 and thereafter the Registers were placed before the Guideline Committee on 28.3.1992 and no correction had been made by the petitioner after the Registers had been approved by the Guideline Committee and the District Registrar. As a matter of fact, the enquiry report of the enquiry officer, the Deputy Inspector General of Registration, categorically indicates that corrections had been made by the petitioner and thereafter the Registers had been placed before the Guideline Committee and the District Registrar. The Inspector General in his notice issued to the petitioner did not accept such conclusion, ultimately came to the conclusion that the charges had been proved. As a matter of fact, there is no evidence in support of the conclusion to the effect that corrections had been made by the petitioner after the Guideline Registers had been finalised by the Guideline Committee and the District Registrar. On the other hand, even the State Administrative Tribunal seems to have concluded that corrections were made on 27.3.1992 and the Registers were placed before the Guideline Committee

and the District Registrar thereafter. In other words, the Tribunal accepted the conclusion of the enquiry officer that no correction had been made after finalisation by the Guideline Committee and the District Registrar.

8. It seems that the Inspector General of Registration had commented on the fact that corrections made had not been attested by the Guideline Committee or the District Registrar. Not obtaining the signature was not the charge against the petitioner. Even assuming that the petitioner should have requested the members of the Guideline Committee or the District Registrar to put their signature at the places were corrections had been made, it cannot be said that any misconduct had been committed by the petitioner. As rightly observed by the Tribunal no motive or evil intention had been attributed to the petitioner. Even it cannot be said that there is any administration lapse. In such view of the matter, the Tribunal instead of quashing the punishment in toto, committed an error apparent on the face of record by merely modifying the punishment to one of stoppage of increment without cumulative effect. The question of modifying the punishment would arise only if there would have been acceptable finding of guilty on the part of the petitioner. Since delinquency itself is not proved and the charge alleged is not acceptable, there is no scope for imposing any punishment, either major or

minor.

9. In such view of the matter, we are inclined to allow the writ petition and to quash the order of modified punishment as directed by the Tribunal. Since punishment itself has been quashed, the prayer of the petitioner in the Original Application that his seniority should be fixed next to T. Ekambaram in the list for 1998-99 is allowed.

10. It is brought to our notice by the Special Government Pleader for the respondents that the petitioner had filed O.A.Nos.3270 of 1992 and 4047 of 2002 and the earlier O.A.No.3270 of 2002 has been dismissed, but such dismissal of O.A., has not been challenged by filing a separate writ petition.

11. O.A.No.3270 of 1992 was for a direction to the respondents to include the name of the petitioner in the panel of Sub-Registrar Grade-I to the post of District Registrar for the year. However, in the second O.A.No.4047 of 2002, there is a comprehensive prayer for quashing the punishment and to fix the seniority next to T. Ekambaram in the District Registrar Panel. Both the matters were decided by the Tribunal in one common order. Since the prayer in the latter O.A.No.4047 of 2002 was comprehensive enough to include the earlier prayer made, non-filing of second writ petition is of no consequence in the peculiar facts and circumstances of the case.

12. In the result, the writ petition is allowed and the order of modified punishment dated 22.4.2003 passed by the State Administrative Tribunal in O.A.No.4047 of 2002 and the proceedings of the second respondent dated 23.12.1998/6.1.1999 are quashed and the respondents are directed to fix the seniority of the petitioner next to T. Ekambaram in the District Registrar Panel and to extend all the consequential benefits to the petitioner including payment of increased salary, etc.. This may be done within a period of two months from the date of receipt of this order. No costs.

dpk

To

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Rep. by its Registrar,
Chennai.

2. The State of Tamilnadu,
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(Commercial Tax), Fort St. George,
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